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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,445	08/17/2006	Satoru Nemoto	062007	7483
38834 7590 07/07/2010 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER SLAWSKI, MAGALIP				
ART UNIT 1795		PAPER NUMBER		
NOTIFICATION DATE 07/07/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

***Advisory Action
Before the Filing of an Appeal Brief***

Application No.

10/564,445

Applicant(s)

NEMOTO ET AL.

Examiner

Magali P. Slawski

Art Unit

1795

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 10 June 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 10 June 2010. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): the 112 first paragraph rejections of claims 2 and 13.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 2, 5, 6 and 9-19.

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Of the reasons given in the rejection mailed December 11, 2009,

Applicant's arguments, see pages 8-10, filed June 6, 2010, with respect to the 112 first paragraph rejections of claims 2 and 13 have been fully considered and are persuasive. The 112 first paragraph rejections of claims 2 and 13 have been withdrawn.

Applicant's remaining arguments have been fully considered but they are not persuasive.

Regarding the 112 first paragraph rejection of claim 15, Applicant argues against the rejection by quoting two dozen lines of the specification, indicating figure 8, stating that "the first path" is a circular path and then repeating the claim language. In response to Applicant's argument, the examiner still does not see how the extension means is between two circular paths. Applicant has not indicated what second circular path is, what the conveying media is or how the conveying media sits between the two paths.

Regarding the 112 second paragraph rejection of claim 15, Applicant argues against the rejection by stating that the recitations in claim 15 are based on figure 8 and that "what is meant by claim 15 would be clear to a person of ordinary skill in the art, when claim 8 [sic] is read with Fig. 8 in mind." In response to Applicant's argument, with all due respect to Applicant, Applicant's argument lacks substantive content. If Applicant believes that the meaning of claim 15 is clear, then Applicant should be able to express that meaning in clear, substantive language. The least that Applicant could do would be to indicate which parts in figure 8 correspond to the each of the claimed elements.

Regarding the amendment of claim 2 and its dependents to replace the phrase "following area" with "following zone extending in plain view," while this amendment links the claim language to the specification, it does not further limit the claim in a way that would require new grounds of rejection. An area is zone. "In plain view" adds no further information or definition to the claims.

Regarding the 102(b) rejection of claim 2 with Saito et al. (US 2002/0088767 A1), henceforth Saito, Saito's paths overlap enough for member 23 to release the drop into the molding die, and this overlap is visible in figure 9. It is a substantial overlap. The

/Jennifer K. Michener/

Supervisory Patent Examiner, Art Unit 1795